

REMARKS

In response to the Office Action mailed October 22, 2004, Applicants respectfully request reconsideration. To further the prosecution of this Application, Applicants submit the following remarks, and have canceled claims. Applicant prays that, after consideration of these remarks, a favorable decision will be provided regarding the claims. The claims as now presented are believed to be in allowable condition.

Claims 1-26 were pending in this Application. By this Amendment, claims 7, 8, 22 and 23 have been canceled. Accordingly, claims 1-6, 9-21 and 24-26 are now pending in this Application. Claims 1 and 16 are independent claims.

Rejections under §103

Claims 1-5, 9-12, 14-15, 16-20 and 25-26 were rejected under 35 U.S.C. §1032(a) as being unpatentable over U.S. Patent No. 6,763,380 to Mayton et al. (hereinafter Mayton) in view of U.S. Patent No. 6,098,157 to Hsu et al. (hereinafter Hsu). Mayton discloses tracking network device performance by simulating communications traffic between a plurality of endpoint nodes, as discloses at column 6, lines 52 – 63. Hsu discloses in the Abstract a method for storing and updating records in a first table containing information corresponding to specific nodes of a network and a second table containing information corresponding to a combination of two specific nodes on a network.

In contrast to Mayton and Hsu, amended claim 1 recites in part capturing a source address of a packet received from a network and intended for a web site, tracing the network route back to the captured source address, observing the performance of the network on the path from the source address to the web site and providing an indication of the quality of service the web site is experiencing for the routes being used to access the web site. Since Mayton is using simulated traffic, Mayton cannot provide an indication of the quality of service a web site is experiencing for the routes being used to access the web site since Mayton is the one placing simulated traffic on the path to the web site

and thus controls the traffic being generated to the web site. Hsu described a method for storing and updating records in a first table containing information corresponding to specific nodes of a network and a second table containing information corresponding to a combination of two specific nodes on a network.

Therefore, since claim 1 recites capturing a source address of a packet received from a network and intended for a web site, tracing the network route back to the captured source address, observing the performance of the network on the path from the source address to the web site and providing an indication of the quality of service the web site is experiencing for the routes being used to access the web site, while neither Mayton nor Hsu, taken alone or in combination recite such, claim 1 patentably distinguishes over the cited prior art, and the rejection of claim 1 under 35 U.S.C. §103(a) should be withdrawn. Accordingly, claim 1 is now in allowable condition. Claim 16 has been amended to recite similar language as claim 1 and is therefore believed allowable for the same reasons as claim 1.

Because claims 2-5, 9-12, 14 –15, 17-20, and 25-26 depend from and further limit claims 1 or 16, claims 2-5, 9-12, 14 –15, 17-20, and 25-26 are in allowable condition for at least the same reasons. Accordingly, the rejection of claims 1-5, 9-12, 14-15, 16-20 and 25-26 under 35 U.S.C. §103(a) is believed to have been overcome.

The Examiner rejected claims 6-8 and 21-23 under 35 U.S.C. §103(a) as being unpatentable over Mayton and Hsu and further in view of U.S. Patent No. 6,446,121 to Shah et al. (hereinafter Shah). Claims 7, 8, 22 and 23 have been canceled. Claims 6 and 21 depend from claims 1 or 16 and are believed allowable as they depend from a base claim which is believed allowable.

The Examiner rejected claims 13 and 24 under 35 U.S.C. §103(a) as being unpatentable over Mayton and Hsu and further in view of U.S. Patent No. 5,493,569 to Buchholz et al. (hereinafter Buchholz). Claims 13 and 24 depend from claims 1 or 16 and are believed allowable as they depend from a base claim which is believed allowable.

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The prior art made of record is not believed to disclose or suggest the present invention.

Conclusion

In view of the foregoing remarks, this Application should be in condition for allowance. A Notice to this affect is respectfully requested. If the Examiner believes, after this Response, that the Application is not in condition for allowance, the Examiner is respectfully requested to call the Applicants' Representative at the number below.

Applicants hereby petition for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-0901.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,



David W. Rouille, Esq.
Attorney for Applicant(s)
Registration No.: 40,150
CHAPIN & HUANG, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, Massachusetts 01581
Telephone: (508) 366-9600
Facsimile: (508) 616-9805

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